



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

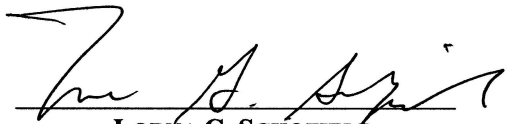
November 22, 2021

The parties shall appear for an evidentiary hearing on **January 24, 2022, at 2:00 p.m.** and if needed, the hearing will continue on the afternoon of January 25, 2022. The parties are advised that this hearing may be adjourned if this Court is engaged in trial proceedings. The Clerk of the Court is directed to terminate the letter motion at docket number 11.

BY ECF

The Honorable Lorna G. Schofield
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Dated: December 20, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: United States v. James Proudfoot, 18 Cr 438 (LGS)

Dear Judge Schofield:

The Government submits this joint letter in response to the Court's docket note, dated November 16, 2021, directing the Government to file a letter detailing (i) the expected duration of the evidentiary hearing (the "Hearing"), (ii) the number of expected witnesses, and (iii) the scope of their testimony.

A. Background

On or about January 31, 2014, in the District of Maine, the defendant, James Proudfoot, was sentenced to 63 months' imprisonment following his conviction for conspiracy to possess with intent to distribute oxycodone and 500 grams or more of cocaine, in violation of Title 21, United States Code, Sections 846, 841(a)(1) and 841(b)(1)(C). Proudfoot was also sentenced to a six-year term of supervised release which commenced on or about October 23, 2017. On or about June 20, 2018, the Southern District of New York (SDNY) accepted a transfer of jurisdiction of this matter.

On or about July 6, 2021, the SDNY Probation Department received notice that Proudfoot had been arrested (the "July 6 Arrest") by the New York City Police Department (NYPD) for his involvement in the sale of narcotics to an undercover member of the NYPD (the "Undercover Sale"). Based on the July 6 Arrest, Probation Officer Robert Terry-Brooks filed a violation report (the "Report") and request for summons with the Court.¹ On or about October 15, 2021, Proudfoot

¹ The Report includes six specifications – all of which relate to Proudfoot's possession with intent to distribute cocaine on or about July 6, 2021.

was appointed counsel and on or about October 22, 2021, the parties jointly informed the Court that an evidentiary hearing is necessary in this matter.²

B. Hearing

The Government expects that the Hearing will last one day. At the Hearing, the Government intends to offer the testimony of three witnesses — two NYPD officers and a NYPD laboratory technician.

i. Detective Jeremy Rodriguez

During the Undercover Sale, Detective (Det.) Jeremy Rodriguez served as the “Ghost.” That is, he personally observed the Undercover Sale and directed the team responsible for the defendant’s apprehension. The Government expects that Det. Rodriguez will testify that, on or about July 6, 2021 at approximately 9:30 p.m., he observed an undercover member of the NYPD (the “UC”) approach an individual (“CC-1”) in the vicinity of 890 Prospect Avenue, Bronx, NY. The Government expects that Det. Rodriguez will testify that he observed a conversation between the UC and CC-1 during which the UC handed CC-1 \$40 in pre-recorded buy money (“PRBM”). CC-1 then walked away from the UC and approached an individual later identified as Proudfoot. Det. Rodriguez will further testify that he observed what appeared to be a transaction between CC-1 and Proudfoot before CC-1 returned to the UC. Det. Rodriguez will testify that after receiving four vials from CC-1, the UC gave the “positive buy sign” to Det. Rodriguez. In response, Det. Rodriguez directed the field team to arrest CC-1 and Proudfoot.

ii. Detective Victor Defense

Det. Victor Defense was the arresting officer during the July 6 Arrest. The Government expects that he will testify about the search incident to arrest of the defendant, which resulted in the recovery of, among other things, (i) \$545, including \$40 in PRBM, and (ii) 27 vials of a substance appearing to be crack cocaine.

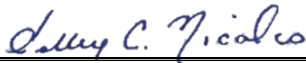
² On or about September 13, 2021, Proudfoot was issued an adjournment in contemplation of dismissal from the Bronx District Attorney’s Office (the “Bronx DA”). The Government has confirmed that the Bronx DA considers the matter closed.

iii. NYPD Laboratory Technician

The Government intends to offer³ the testimony of an NYPD laboratory technician who participated in the testing of the narcotics (i) sold to the UC and (ii) recovered from Proudfoot during the search incident to arrest.⁴

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by: 
Ashley C. Nicolas
Assistant United States Attorney

cc: Deveraux Cannick, Esq. (counsel for James Proudfoot) (by email)
Officer Robert Terry-Brooks, Probation Department (by email)

³ The Government intends to seek a testimonial stipulation as to the NYPD Laboratory Technician. If there is a stipulation, the Government would not call this witness at the Hearing.

⁴ Results of laboratory testing are currently pending.